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WALKER DIGITAL
FIVE HIGH RIDGE PARK
STAMFORD, CT 06905

EXAMINER

KAPADIA, MILAN S

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 07/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/609,253

Applicant(s)

WALKER ET AL.

Examiner

Milan S Kapadia

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-47, 50, 59 and 116-125 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-47, 49, 50 and 116-125 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2, 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Notice to Applicant

1. This communication is in response to the application filed 20 September 2000.
Claims 1-19 are pending.

Election/Restrictions

2. Applicant's election of "Invention II" in Paper No. 5 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title; if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-5, 18-31, 37-38, 43-47, 49-50, 116-118, and 125 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reber et al. (5,950,632) in view of de la Huerga et al. (5,852,590).

(A) As per claim 2, Reber teaches a method for use by a first container that is adapted to store a first medicine (Reber; col. 7, lines 60-67), the method comprising:
storing information regarding the first medicine (Reber; col. 7, lines 60-67).

Reber fails to expressly teach wirelessly communicating a signal between the first container and a second container, the second container adapted to store a second medicine. However, this feature is old and well known in the art, as evidenced by de la Huerga's teachings with regards to wirelessly communicating a signal between the first container and a second container, the second container adapted to store a second medicine (de la Huerga; abstract and col. 13, line 57-col. 14, line 24; the Examiner respectfully notes that in the system of de la Huerga, the patient is alerted via transmitting alerts to the medication containers (de la Huerga; col. 11, lines 35-58)). It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the system taught by Reber with de la Huerga's teaching with regards to this limitation, with the motivation of communicating instructions for alternating between differing medications in a controlled sequence (de la Huerga; col. 3, col. 3, line 64-col. 4, line 6).

(B) As per claim 3, Reber fails to expressly teach wherein wirelessly communicating a signal between the first container and a second container comprises at least one of transmitting information regarding the first medicine from the first container to the second container and receiving information regarding the second medicine from the

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second container. However, this feature is old and well known in the art, as evidenced by de la Huerga's teachings with regards to wherein wirelessly communicating a signal between the first container and a second container comprises at least one of transmitting information regarding the first medicine from the first container to the second container (de la Huerga; col. 14, lines 6-24) and receiving information regarding the second medicine from the second container (de la Huerga; col. 14, lines 6-24). It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the system taught by Reber with de la Huerga's teaching with regards to this limitation, with the motivation of communicating instructions for alternating between differing medications in a controlled sequence (de la Huerga; col. 3, col. 3, line 64-col. 4, line 6).

(C) As per claim 4, Reber fails to expressly teach generating at least one code based at least in part on the signal, the at least one code indicating whether at least one party has complied with a schedule for taking the first medicine and the second medicine. However, this feature is old and well known in the art, as evidenced by de la Huerga's teachings with regards to generating at least one code based at least in part on the signal, the at least one code indicating whether at least one party has complied with a schedule for taking the first medicine and the second medicine (de la Huerga; col. 13, lines 26-46). It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the system taught by Reber with de la Huerga's teaching with regards to this limitation, with the motivation

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of monitoring patient compliance to prescription regiment (de la Huerga; col. 13, lines 26-46).

(D) As per claim 5, Reber fails to expressly teach outputting the at least one code to at least one of a representative of an insurance company, a representative of a pharmacy and a representative of a medical facility. However, this feature is old and well known in the art, as evidenced by de la Huerga's teachings with regards to outputting the at least one code to at least one of a representative of an insurance company, a representative of a pharmacy and a representative of a medical facility (de la Huerga; col. 13, lines 26-46). It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the system taught by Reber with de la Huerga's teaching with regards to this limitation, with the motivation of monitoring patient compliance to prescription regiment (de la Huerga; col. 13, lines 26-46).

(E) As per claims 18 and 19, Reber teaches receiving and storing information regarding a schedule for taking at least one of the first medicine and the second medicine (Reber; col. 2, lines 48-65).

(F) As per claim 20, Reber teaches wherein receiving information regarding a schedule for taking the first medicine comprises receiving the information regarding the schedule from at least one of a representative of an insurance company, a

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representative of a pharmacy, a representative of a medical facility, a representative of a manufacturer of at least one of the first and the second medicines and a party that is to take at least one of the first and the second medicines (Reber; col. 3, lines 50-58).

(G) As per claim 21, Reber teaches storing the first medicine in the first container (Reber; col. 2, line 66-col. 3, line 8).

(H) As per claim 22, Reber teaches detecting if a portion of the first medicine has been removed from the first container (Reber; col. 8, lines 50-62).

(I) As per claim 23, Reber fails to expressly teach wherein detecting if a portion of the first medicine has been removed from the first container comprises detecting if the first container has been opened or closed. However, this feature is old and well known in the art, as evidenced by de la Huerga's teachings with regards to wherein detecting if a portion of the first medicine has been removed from the first container comprises detecting if the first container has been opened or closed (de la Huerga; col. 3, lines 27-35). It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the system taught by Reber with de la Huerga's teaching with regards to this limitation, with the motivation of keeping inventory information regarding the number of medication doses remaining in the container (de la Huerga; col. 3, lines 30-33).

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(J) As per claim 24, the combined system of Reber and de la Huerga collectively fail to expressly teach wherein detecting if a portion of the first medicine has been removed from the first container comprises detecting a weight of the first container. However, since in the medical arts the weight of various medications are known and the difference between weightings of the medical containers can be used to determine the portion of the first medicine that has been removed, it is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the collective system of Reber and de la Huerga to detect if a portion of the first medicine has been removed from the first container by detecting a weight of the first container, with the motivation of keeping inventory information regarding the number of medication doses remaining in the container (de la Huerga; col. 3, lines 30-33).

(K) As per claim 25, Reber fails to expressly teach wherein detecting if a portion of the first medicine has been removed from the first container comprises detecting a count of the first medicine. However, this feature is old and well known in the art, as evidenced by de la Huerga's teachings with regards to wherein detecting if a portion of the first medicine has been removed from the first container comprises detecting a count of the first medicine (de la Huerga; col. 13, lines 47-56). It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the system taught by Reber with de la Huerga's teaching with regards to this limitation, with the motivation of keeping inventory

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information regarding the number of medication doses remaining in the container (de la Huerga; col. 3, lines 30-33).

(L) As per claim 26, Reber teaches at least one of storing information regarding the portion and transmitting the information regarding the portion if the portion has been removed from the first container (Reber; col. 11, lines 55-67).

(M) As per claim 27, Reber teaches detecting if the second medicine has been stored in the second container (Reber; col. 11, lines 55-67).

(N) As per claim 28, Reber teaches detecting if a portion of the second medicine has been removed from the second container (Reber; col. 8, lines 50-62).

(O) As per claim 29, Reber teaches wherein detecting if the portion of the second medicine has been removed from the second container comprises receiving a signal from the second container that indicates that the portion of the second medicine has been removed from the second container (Reber; col. 8, lines 50-62).

(P) As per claim 30, Reber teaches at least one of storing information regarding the portion and transmitting the information regarding the portion if the portion has been removed from the second container (Reber; col. 11, lines 55-67).

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(Q) As per claim 31, Reber fails to expressly teach storing the information regarding the second medicine, the information being stored within the first container. However, this feature is old and well known in the art, as evidenced by de la Huerga's teachings with regards to storing the information regarding the second medicine, the information being stored within the first container (de la Huerga; col. 3, line 64-col. 4, line 6 and col. 14, lines 6-24). It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the system taught by Reber with de la Huerga's teaching with regards to this limitation, with the motivation of communicating instructions for alternating between differing medications in a controlled sequence (de la Huerga; col. 3, col. 3, line 64-col. 4, line 6).

(R) As per claims 37 and 38, Reber fails to expressly teach receiving information regarding the second medicine stored within the second container and wherein receiving information regarding the second medicine stored within the second container comprises receiving information transmitted by the second container. However, this feature is old and well known in the art, as evidenced by de la Huerga's teachings with regards to receiving information regarding the second medicine stored within the second container and wherein receiving information regarding the second medicine stored within the second container comprises receiving information transmitted by the second container (de la Huerga; col. 14, lines 6-24). It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the system taught by Reber with de la Huerga's teaching with

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regards to this limitation, with the motivation of communicating instructions for alternating between differing medications in a controlled sequence (de la Huerga; col. 3, col. 3, line 64-col. 4, line 6).

(S) As per claims 43 and 44, Reber fails to expressly teach tracking a number of times the first and second containers is opened or closed. However, this feature is old and well known in the art, as evidenced by de la Huerga's teachings with regards to tracking a number of times the first and second containers is opened or closed (de la Huerga; col. 12, line 63-col. 13, line 46). It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the system taught by Reber with de la Huerga's teaching with regards to this limitation, with the motivation of preventing a patient from consuming too many pills in too short of a time (de la Huerga; col. 3, lines 19-22).

(T) As per claim 45, Reber fails to expressly teach receiving a signal from the second container each time the second container is opened or closed and counting a number of signals received from the second container. However, this feature is old and well known in the art, as evidenced by de la Huerga's teachings with regards to receiving a signal from the second container each time the second container is opened or closed and counting a number of signals received from the second container (de la Huerga; col. 12, line 63-col. 13, line 46). It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made,

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to expand the system taught by Reber with de la Huerga's teaching with regards to this limitation, with the motivation of preventing a patient from consuming too many pills in too short of a time (de la Huerga; col. 3, lines 19-22).

(U) As per claim 46, Reber fails to expressly teach storing at least a portion of medical history of a party within the first container. However, this feature is old and well known in the art, as evidenced by de la Huerga's teachings with regards to storing at least a portion of medical history of a party within the first container (de la Huerga; col. 10, lines 18-43). It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the system taught by Reber with de la Huerga's teaching with regards to this limitation, with the motivation containing a wide variety of information that is not practical to print out in textual form on a relatively small label (de la Huerga; col. 3, lines 42-45).

(V) As per claim 47, Reber teaches storing information regarding a third medicine in the first container if the first container is refilled with the third medicine (Reber; col. 13, lines 64-67).

(W) System claim 49 repeats the subject matter of method claim 2, as a set of apparatus elements rather than a series of steps. As the underlying processes of claim 2 has been shown to be fully disclosed by the teachings of Reber and de la Huerga in the above rejections of claim 2, it is readily apparent that the system disclosed by Reber

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and de la Huerga includes the apparatus to perform these functions. As such, these limitations are rejected for the same reasons given above for method claim 1, and incorporated herein.

(X) As per claim 50, Reber teaches wherein the communication device comprises a transceiver (Reber; col. 4, lines 28-41).

(Y) Claims 116 and 117 repeat the features of claim 1 and are therefore rejected for the same reasons given above in the rejection of claim 1 and incorporated herein.

(Z) As per claim 118, Reber fails to expressly teach positioning the first container and the second container so that the first container and the second container may communicate. However, this feature is old and well known in the art, as evidenced by de la Huerga's teachings with regards to positioning the first container and the second container so that the first container and the second container may communicate (de la Huerga; abstract and col. 13, line 57-col. 14, line 24; the Examiner respectfully notes that in the system of de la Huerga, the patient is alerted via transmitting alerts to the medication containers (de la Huerga; col. 11, lines 35-58)). It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the system taught by Reber with de la Huerga's teaching with regards to this limitation, with the motivation of communicating instructions

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for alternating between differing medications in a controlled sequence (de la Huerga; col. 3, col. 3, line 64-col. 4, line 6).

(AA) As per claim 125, Reber teaches obtaining a refill for the first container (Reber; col. 13, lines 64-66).

5. Claims 6-8, 41-42, and 119-121 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reber et al. (5,950,632) and de la Huerga et al. (5,852,590) as applied to claims 2 and 118 above and further in view of Mauney et al. (6,484,027).

(A) As per claim 6, the combined system of Reber and de la Huerga teach that the medication containers are wireless devices (del la Huerga; col. 11, lines 35-57) but collectively fail to expressly teach detecting if the first container and the second container cannot communicate. However, this feature is old and well known in the art, as evidenced by Mauney's teachings with regards to detecting if a first wireless device and a second wireless device cannot communicate (Mauney; abstract col. 7, lines 39-55, and col. 8, lines 43-53). It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the collective system taught by Reber and de la Huerga with Mauney's teaching with regards to this limitation, with the motivation of determining if the medication containers are in range to communicate (Mauney; col. 7, lines 39-44).

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(B) As per claim 7, the combined system of Reber and de la Huerga teach that the medication containers are wireless devices (del la Huerga; col. 11, lines 35-57) but collectively fail to expressly teach determining if the first container and the second container are separated by a distance that prevents the first container and the second container from communicating. However, this feature is old and well known in the art, as evidenced by Mauney's teachings with regards to determining if the first container and the second container are separated by a distance that prevents the first container and the second container from communicating (Mauney; abstract col. 7, lines 39-55, and col. 8, lines 43-53). It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the collective system taught by Reber and de la Huerga with Mauney's teaching with regards to this limitation, with the motivation of determining if the medication containers are in range to communicate (Mauney; col. 7, lines 39-44).

(C) As per claim 8, the combined system of Reber and de la Huerga teach that the medication containers are wireless devices (del la Huerga; col. 11, lines 35-57) but collectively fail to expressly teach determining a time when the first container and the second container are at least initially separated by the distance that prevents the first container and the second container from communicating. However, this feature is old and well known in the art, as evidenced by Mauney's teachings with regards to determining a time when the first container and the second container are at least initially separated by the distance that prevents the first container and the second container

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from communicating (Mauney; col. 32, line 61-col. 33, line 6). It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the collective system taught by Reber and de la Huerga with Mauney's teaching with regards to this limitation, with the motivation of determining if the medication containers are in range to communicate (Mauney; col. 7, lines 39-44).

(D) As per claim 41, the combined system of Reber, de la Huerga, and Mauney collectively teach determining if the first container is positioned so as to communicate with the second container as shown above in the rejection of claim 6 and incorporated herein. The combined system of Reber, de la Huerga, and Mauney collectively fail to expressly teach attempting to prevent a party from accessing at least one of the first and second medicines if the first and second containers cannot communicate. However, the combined system of Reber, de la Huerga, and Mauney collectively teach that certain medications need to be taken together (de la Huerga; col. 3, line 64-col. 4, line 6) and also teach preventing a party from accessing at least one of the first and second medicines (de La Huerga; col. 12, lines 29-60). As such, it is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the collective system taught by Reber, de la Huerga, and Mauney to attempt to prevent a party from accessing at least one of the first and second medicines if the first and second containers cannot communicate, with

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the motivation of preventing a patient from taking a medication in situations where they would not be able to take all medications that may be required.

(E) As per claim 42, the combined system of Reber and Mauney collectively fail to expressly teach wherein preventing a party from accessing at least one of the first and the second medicines comprises preventing the party from opening at least one of the first and the second containers. However, this feature is old and well known in the art, as evidenced by de la Huerga's teachings with regards wherein preventing a party from accessing at least one of the first and the second medicines comprises preventing the party from opening at least one of the first and the second containers (de la Huerga; col. 12, lines 29-60). It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the collective system taught by Reber and Mauney with de la Huerga's teaching with regards to this limitation, with the motivation of controlling the patient's ability to access and remove the medication until the next dose of medication is due according to the prescribed dosing regimen (de la Huerga; col. 12, lines 33-37).

(F) Claim 119 repeats the features of claim 6 and is therefore rejected for the same reasons given above in the rejection of claim 6 and incorporated herein.

(G) As per claim 120, the combined system of Reber and de la Huerga teach that the

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medication containers are wireless devices (del la Huerga; col. 11, lines 35-57) but collectively fail to expressly teach providing the received code to at least one party. However, this feature is old and well known in the art, as evidenced by Mauney's teachings with regards to providing the received code to at least one party (Mauney; abstract col. 7, lines 39-55, and col. 8, lines 43-53). It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the collective system taught by Reber and de la Huerga with Mauney's teaching with regards to this limitation, with the motivation of determining if the medication containers are in range to communicate (Mauney; col. 7, lines 39-44).

(H) Claim 121 repeats the features of claim 5 and is therefore rejected for the same reasons given above in the rejection of claim 5 and incorporated herein.

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reber et al. (5,950,632), de la Huerga et al. (5,852,590), and Mauney et al. (6,484,027) as applied to claim 8 above and further in view of McEwan (5,589,839).

(A) As per claim 9, the combined system of Reber, de la Huerga, and Mauney teach that the medication containers are wireless devices (del la Huerga; col. 11, lines 35-57) but collectively fail to expressly teach at least one of storing the time and transmitting the time. However, this feature is old and well known in the art, as evidenced by McEwan's teachings with regards to at least one of storing the time and transmitting the

time (McEwan; abstract). It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the collective system taught by Reber, de la Huerga, and Mauney with McEwan's teaching with regards to this limitation, with the motivation of determining the position of the medication containers (McEwan; abstract).

7. Claims 10-17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reber et al. (5,950,632) and de la Huerga et al. (5,852,590) as applied to claim 2 above and further in view of McEwan (5,589,839).

(A) As per claims 10, 14, and 15, the combined system of Reber and de la Huerga teach that the medication containers are wireless devices (del la Huerga; col. 11, lines 35-57) but collectively fail to expressly teach determining a distance between the first container and the second container based on the signal and tracking a location of at least one of the first and second containers with a local positioning system. However, this feature is old and well known in the art, as evidenced by McEwan's teachings with regards to determining a distance between the first container and the second container based on the signal and tracking a location of at least one of the first and second containers with a local positioning system (McEwan; col. 3, lines 15-36 and line 54-col. 4, line 3). It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the collective system taught by Reber and de la Huerga with McEwan's teaching with regards to this

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limitation, with the motivation of determining the location of the medication containers (McEwan; col. 2, lines 25-30).

(B) As per claim 11, the combined system of Reber and de la Huerga teach that the medication containers are wireless devices (del la Huerga; col. 11, lines 35-57) but collectively fail to expressly teach at least one of storing the distance and transmitting the distance. However, this feature is old and well known in the art, as evidenced by McEwan's teachings with regards to at least one of storing the distance and transmitting the distance (McEwan; col. 3, lines 54-66). It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the collective system taught by Reber and de la Huerga with McEwan's teaching with regards to this limitation, with the motivation of determining the location of the medication containers (McEwan; col. 2, lines 25-30).

(C) As per claim 12, the combined system of Reber and de la Huerga teach that the medication containers are wireless devices (del la Huerga; col. 11, lines 35-57) but collectively fail to expressly teach determining a change in the distance between the first container and the second container based on the signal. However, this feature is old and well known in the art, as evidenced by McEwan's teachings with regards to determining a change in the distance between the first container and the second container based on the signal (McEwan; col. 3, lines 14-36). It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the

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invention was made, to expand the collective system taught by Reber and de la Huerga with McEwan's teaching with regards to this limitation, with the motivation of determining the location of the medication containers (McEwan; col. 2, lines 25-30).

(D) As per claim 13, the combined system of Reber and de la Huerga teach that the medication containers are wireless devices (del la Huerga; col. 11, lines 35-57) but collectively fail to expressly teach at least one of storing the change in the distance and transmitting the change in the distance. However, this feature is old and well known in the art, as evidenced by McEwan's teachings with regards to at least one of storing the change in the distance and transmitting the change in the distance (McEwan; col. 3, lines 54-66). It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the collective system taught by Reber and de la Huerga with McEwan's teaching with regards to this limitation, with the motivation of determining the location of the medication containers (McEwan; col. 2, lines 25-30).

(E) As per claims 16 and 17, the combined system of Reber and de la Huerga teach that the medication containers are wireless devices (del la Huerga; col. 11, lines 35-57) but collectively fail to expressly teach identifying the location of the at least one of the first and second containers with the local positioning system and obtaining information regarding a position of the at least one of the first and second containers with the local positioning system. However, this feature is old and well known in the art, as evidenced

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by McEwan's teachings with regards to identifying the location of the at least one of the first and second containers with the local positioning system and obtaining information regarding a position of the at least one of the first and second containers with the local positioning system (McEwan; col. 3, lines 15-36 and line 54-col. 4, line 3). It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the collective system taught by Reber and de la Huerga with McEwan's teaching with regards to this limitation, with the motivation of determining the location of the medication containers (McEwan; col. 2, lines 25-30).

8. Claims 39-40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reber et al. (5,950,632) and de la Huerga et al. (5,852,590) as applied to claim 2 above and further in view of official notice.

(A) As per claim 39, the combined system of Reber and de la Huerga collectively fail to expressly teach wherein the first and second medicines are the same medicine. However, the combined system of Reber and de la Huerga clearly teach the medication containers containing any medicines that are desired (Reber; col. 7, lines 60-66). The examiner takes official notice that the use of medication containers containing the same medicine is well-known in the medical arts. Thus, it is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to gather information as required by Reber and de la Huerga using any

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desired medication in the containers, even the same medicine if desired, with the motivation of meeting the prescription requirements.

(B) As per claim 40, the combined system of Reber and de la Huerga collectively fail to expressly teach wherein at least one of the first and second containers comprises a micro-needle based device. However, the combined system of Reber and de la Huerga clearly teach the use of medication containers to deliver medicine (Reber; col. 7, lines 60-66). The examiner takes official notice that the use of micro-needle based devices to deliver medicine is well-known in the medical arts. Thus, it is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to deliver medicine as required by Reber and de la Huerga using and known delivery mechanism, such as micro-needle based devices, with the motivation of meeting the prescription requirements.

9. Claims 122-124 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reber et al. (5,950,632), de la Huerga et al. (5,852,590), and Mauney et al. (6,484,027) as applied to claim 120 above and further in view of official notice.

(A) As per claims 122-124, the combined system of Reber, de la Huerga, and Mauney collectively fail to expressly teach wherein providing an image of the code, entering the received code during a telephone call and emailing the received code. However, the combined system of Reber, de la Huerga, Mauney clearly teach notifying

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at least party the via the received code (Mauney; col. 7, lines 39-67). The examiner takes official notice that the use images, entry during a telephone call, and email to notify a party of an event is well-known in the computer arts. Thus, it is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to provide information as required by Reber, de la Huerga, and Mauney using any well-known communication means, such as images, telephone entry and email, with the motivation of notifying the party of a particular event.

10. Claims 32-36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reber et al. (5,950,632) and de la Huerga et al. (5,852,590) as applied to claim 28 above and further in view of McIntosh et al. (4,682,299).

(A) As per claims 32 and 33, the combined system of Reber and de la Huerga collectively fail to expressly teach determining if the first medicine is incompatible with the second medicine and detecting if a party attempts to take the first medicine within a predetermined time period of taking the second medicine and generating a warning if the first medicine is incompatible with the second medicine if the first and second medicines are both taken during the predetermined time period. However, this feature is old and well known in the art, as evidenced by McIntosh's teachings with regards to determining if the first medicine is incompatible with the second medicine and detecting if a party attempts to take the first medicine within a predetermined time period of taking the second medicine and generating a warning if the first medicine is incompatible with

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the second medicine if the first and second medicines are both taken during the predetermined time period (McIntosh; col. 15, line 66-col. 16, line 17). It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the collective system taught by Reber and de la Huerga with McIntosh's teaching with regards to this limitation, with the motivation of revealing incompatibilities between medications (McIntosh; col. 3, lines 47-52).

(B) As per claims 34 and 35, the combined system of Reber and de la Huerga collectively fail to expressly teach storing an indicator of the warning and transmitting an indicator of the warning. However, this feature is old and well known in the art, as evidenced by McIntosh's teachings with regards to storing an indicator of the warning and transmitting an indicator of the warning (McIntosh; col. 15, line 66-col. 16, line 17). It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the collective system taught by Reber and de la Huerga with McIntosh's teaching with regards to this limitation, with the motivation of revealing incompatibilities between medications (McIntosh; col. 3, lines 47-52).

(C) Claim 36 repeats the features of claim 4 and is therefore rejected for the same reasons given above in the rejection of claim 4 and incorporated herein.

Conclusion

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11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied art teaches a self-locating radio system that automatically configures to the radio regulations for the location (5,678,182); a prescription compliance device and method of using device (6,018,289); a wireless communication system (5,210,785); a signal time of arrival position determining method for calculating cellular telephone billing charges (5,758,288); a system for hybrid wired and wireless geographic-based communications (5,969,678); a vial loading method and apparatus for intelligent admixture and delivery of intravenous drugs (6,070,761); a patient compliance and status monitoring system (5,016,172); and a method and system for determining the position of a mobile receiver (5,600,706).

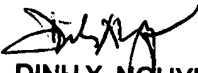
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milan S Kapadia whose telephone number is 703-305-3887. The examiner can normally be reached on Monday through Thursday, 8:30 A.M. to 6:00 P.M. In addition the examiner can be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 703-305-9588. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

mk


DINH X. NGUYEN
PRIMARY EXAMINER

July 10, 2003